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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/644,713      | 08/20/2003  | Sohel Anwar          | V201-0283           | 6114             |

7590 05/27/2004

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|                   |              |
|-------------------|--------------|
| EXAMINER          |              |
| NGUYEN, XUAN LANT |              |
| ART UNIT          | PAPER NUMBER |
| 3683              |              |

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                  |
|------------------------------|------------------------|------------------|
| <b>Office Action Summary</b> | Application No.        | Applicant(s)     |
|                              | 10/644,713             | ANWAR ET AL.     |
|                              | Examiner<br>Lan Nguyen | Art Unit<br>3683 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/20/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "31" on page 5 of the specification. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claims 1-12 are objected to because of the following informalities:

- In claim 1, line 17, "based on memory" should be --based on said memory--.
- In claim 1, a period --- should be inserted at the end of the claim.
- In claims 7 and 8, the end of lines 1, "a" should be replaced with --an--.
- In claim 7, line 8, "a braking switch" should be --said braking switch--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 8-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

- In claim 8, claimed feature “decoupling the battery from the eddy current devices at the end of the initial power interval;” ,on lines 26 and 27, is neither discussed nor illustrated in the specification and the drawings.
- In claim 8, line 30, it is believed that --coupling the generator to the eddy current devices-- should be inserted in front of “then activating friction braking”.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Kimura.

Kimura shows in the Abstract a method, as claimed in claim 7, comprising: detecting the actuation of the braking switch 24, coupling the eddy current device 23 to the battery 12 for a predetermined ramp time while thawing, opening the battery switch 24 after thawing; and energizing the eddy current device by supplying power to the eddy current devices from the generator as stated in the Abstract.

***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-6 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of copending Application No. 10/644,909. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-6 of the instant application are broader and would have encompassed the scopes of claims 1-6 in the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. It has been determined that there are no double patenting issue with USP 6,702,404.

***Allowable Subject Matter***

10. Claims 8-12 would be allowable if rewritten or amended to overcome the objection and rejection(s) under 35 U.S.C. 112, first paragraph, set forth in this Office action.
11. Claims 13-17 are allowed.
12. The following is a statement of reasons for the indication of allowable subject matter: McNair et al. show a back up mode wherein an eddy current device for drilling equipment is supplied with the power from a battery when the main power fails. Kimura shows a method of supplying the power from a battery to an eddy current device at the initial stage of operation. However, none of the cited prior art shows a supply of power from a battery to an eddy current device at the initial stage of operation of a braking system based on the stored actual power output of the generator, a stored elapsed energization time, a stored predetermined ramp time and a stored predetermined power requirement of the eddy current devices; and in response to inputs from the brake pedal sensor, the eddy current devices, and the generator as claimed in claim 1.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McNair et al. is cited for a teaching of a back up mode wherein an eddy current device for drilling equipment is supplied with the power from a battery when the main power fails.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Lan Nguyen* 5/18/04  
*Lan Nguyen*  
Patent Examiner  
A. U. 3683